IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24273 of 1995

Between:

Kalluri Rukminamma` W/o.Late K.Rama Krishna Reddy
R/o. of Porumamilla Mandal , Cuddapah Dist.

..... PETITIONER

AND

1 The Regional Manager State Bank Of India
Regional Office at Tirupathi of Chittoor Dist.
2 The Manager , State Bank Of India
Tekurpet Branch , Porumamilla Mandal Cuddapah Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent to clear off the crop loans of the petitioner and her sons for settlement of Pension S.B.Account bearing No.P2/98 of her late husband as condition precedent as bad , illegal , arbitrary and without jurisdiction and also violation of the orders of this Hon'ble Court and consequently direct the 2nd respondent to settle the pension S.B.Account No.P2/98 of Late K.Rama Krishna Reddy in favour of the petitioner and to forward the application and necessary papers submitted by the petitioner for sanction of Family Pension by the Pension Payment Authority and pass such other order or orders.

Counsel for the Petitioner:MR.C.DAMODHAR REDDY

Counsel for the Respondent No.: MR.K.SRINIVASAMURTHY

The Court made the following :

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 24273 OF 1995

ORDER:

The present writ petition is filed for the following relief;

> *"…Mandamus declaring the action of the second respondent to clear off the crop loans of petitioner and her sons for settlement of pension S.B.Account bearing No.P2/98 of her late husband as condition precedent as bad, illegal, arbitrary and without jurisdiction and also violative of the orders of this Hon'ble Court and consequently direct the second respondent to settle the Pension S.B.Account No. P2/1998 of late K.Rama Krishna Reddy in favour of the petitioner and to forward the application and necessary papers submitted by the petitioner for sanction of family pension by the pension payment authority and pass such further order of orders…."*

It is stated in the affidavit filed in support of the writ petition that the husband of the petitioner was retired as Superintending Engineer and allotted P.P.O.No.14 S 002873 and drawing the monthly pension through second respondent bank and that he died on
15-3-1995. At the time of death of husband of the petitioner the balance pension amount lying in the S.B.Account No. P2/98 is Rs.14,836/-and the petitioner was declared as nominee. Hence, the petitioner has made an application to the respondent bank together with legal heir certificate, and necessary affidavits and requested the respondent bank to settle the account and forward the same to the Pension Payment Authority, Cuddapath for payment of the Family Pension. The grievance of the petitioner is that no action was taken by respondents and on lot of

persuasions and enquiries, the second respondent bank issued letter dated 19-5-1995 advising the petitioner to clear of outstanding crop loans obtained by her and by her sons before settlement of the S.B.Account of her husband. Questioning the said action, the petitioner, her sons and others had filed W.P. 14174 of 1994 seeking direction to waive the crop loans under the Agricultural & Rural Debt Relief Schemes, 1990 evolved by the Government of India. This Court by order in W.P.M.P.No. 17373 of 1994 dated 24-10-1994 stayed all further proceedings including the collection of loan amounts of the petitioners therein. It is further stated that after passing interim orders by this Court on 24-10-1994, the second respondent again issued letter dated 14-8-1995 insisting the petitioner to clear the crop loan accounts standing in the name of petitioner and her sons. The operative portion of the said letter reads as under:

> "The contention that the cases are pending in the High Court for waiver of loan amount does not have any relevance for the bank right to set off as there are no prohibitory orders on the bank to exercise its right. Thus your are liable to appropriate the amount to the loan accounts at the time of settlement."

The main contention of the petitioner herein is that though it has made several representations, the second respondent is neither settling the account of the Pension of her husband nor forwarding the application for sanction of Family Pension to the Pension Payment Authority and insisting for clearing the crop loan, recovery of which was stayed by this Court by order dated 24-10-1994.

It is to be noted that the writ petition was admitted on 30-10-1995 and learned Standing Counsel for respondent took notice for respondents and sought time for filing counter. Thereafter on 1-12-1995 interim direction was granted directing the second respondent to settle the pension S.B.Account No.P2/98 of late K.Ramakrishna Reddy in favour of the petitioner and to forward the application and necessary papers submitted by the petitioner for sanction of Family Pension by pension payment Authority. However, respondents did not chose to file counter in the matter all these days. Thereafter, from 24-10-2003 the matter underwent five adjournments, however, no counter affidavit filed by the respondent and on 22-7-2004 the following order was passed:

> *"In spite of granting sufficient time, no counter affidavit is filed*

by the respondents. Learned counsel for respondents seeks time to file counter affidavit. One week time is granted to the respondents to file counter affidavit, on payment of costs of Rs.500. Post next week for filing counter affidavit by the respondents."

Thereafter the matter was listed on 3-8-2004 and adjourned to today. In spite of specific observations made by this Court and granting sufficient time, the respondents did not chose to file the counter in the matter nor paid the costs as directed by this Court. In the circumstances, the matter is taken up for disposal on merits and material available on record.

Heard the learned counsel for petitioner and perused the material available on record.

The matter is pending since 1995 and the respondents unnecessarily withheld the application of the petitioner for grant of family pension and settlement of account insisting for settlement of a loan which is a subject matter of another writ petition pending before this Court, wherein this Court stayed all further proceedings including the collection of loan amounts. If any sum is due to the respondent bank, by the petitioners or her sons, the proper course for the respondents is to initiate appropriate proceedings in accordance with law. However, the respondent bank cannot stall settlement of an existing account and forwarding the application for grant of pension for such a long time of about 9 years, forcing the petitioner to go around pillar to post. More over, the petitioner has also obtained interim direction from this Court by order dated 1-12-1995 directing the respondents to settle the account and forward the application for sanction of family pension.

In the circumstances, the respondents are directed to take necessary action and to settle the pension account S.B.No. P2/98 and forward the application of the petitioner for sanction of family pension forthwith. Accordingly, the writ petition is allowed. No costs.

N.V.RAMANA,J

5-8-2004

TVK

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Davinder Gupta, the Chief Justice on this Thursday the fifth day of August, two thousand and four.

SD/-

Asst.Registrar

To

1 The Regional Manager State Bank Of India
Regional Office at Tirupathi of Chittoor Dist.
2 The Manager , State Bank Of India
Tekurpet Branch , Porumamilla Mandal Cuddapah Dist.

3..2CCs to

4..2CD copies

*Form-NIC-OGS/WP{**LOBIS**}*

THE HON’BLE SRI JUSTICE N.V.RAMANA

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Date: 5-8-2004